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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,414	10/24/2005	Thomas Riester	2003P04804WOUS	5299
29177	7590	03/13/2009		
K&L Gates LLP P.O. BOX 1135 CHICAGO, IL 60690			EXAMINER HESS, DANIEL A	
			ART UNIT	PAPER NUMBER
			2876	
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			03/13/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/554,414	RIESTER ET AL.	
	Examiner	Art Unit	
	DANIEL A. HESS	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/24/2005, and amendment of 11/24/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 18-36 is/are rejected.
- 7) ☒ Claim(s) 12-17 and 37-39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/24/05; 11/24/06; 12/3/08</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This action is responsive to the applicant's filing of 10/24/2005, and amendment of 11/24/06, which have been entered into the electronic file of record.

The examiner regrets any inconvenience experienced by the applicant due to the pendency of the Office.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 18 recites the limitation "arresting element" while depending from claim 1. There is insufficient antecedent basis for this limitation in the claim.

Claims 25-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claims 25-30 recite the limitation "closure element" while depending from claim 23.

There is insufficient antecedent basis for this limitation in the claim.

“Closure means” (which is similar but not the same as “closure element” appears in claim 24, but these claims do not depend from claim 24.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-9, 20-23, 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Feeser (US 6,454,170).

Re claims 1, 2, 35:

It is noted briefly that the words in the preamble, "for a tachograph in a motor vehicle" express an intended use and not a positive limitation. Still, it is noted (column 1, line 65) that motor vehicle applications are considered by Feeser.

Attention is drawn especially to figures 1 and 3 of Feeser. As figure 3 shows, a card 2 enters completely into the device interior. There is a means (see for instance column 2, lines 40-65) for drawing the card completely into the card interior. There is an elongate receiving opening through which the card passes (see figures 1 and 3) on its way to its final destination in the interior of the card reader. A locking unit includes a locking element 27 which moves into a

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clear cross section of the receiving opening and this locking element has an abutment area 25 arranged to touch a card located within the device at an outwardly pointing end face of the card and, as figure 3 shows, the abutment portion 25 presses against the card 2 in the insertion direction.

Re claims 3 and 4: Element 24 is fixed at a far interior portion (unseen in the figures) while the near end including abutment portion 25 moves up and down as figures 1 and 3 show. Thus the point where the element 24 is fixed can be considered a rotation axis.

Re claim 5: The axis has been discussed above. The portion 12 which moves to the right and left in figure 1 is a guide portion which is a sliding block such that the inward and outward movement guides the arm 24/25/27 into and out of a locking position about a pivot axis.

The guide portion 12 has a slot.

Re claim 7: For a discussion of the abutment portion, see discussion re claim 1 above.

Re claims 8 and 9: The entire locking arm including the abutment piece in Feeser is essentially a leaf spring that is biased downward.

Re claim 20, 23: See figure 4. There is a stop, namely the housing 11, in which are the contacts.

Re claim 21, 22: In Feeser, the flexible arm 27 with abutment area 25 are indeed elastic and press the card 2 inward to the wall of the housing 11 where the contacts are located.

Re claim 34: Contacts are a necessity and are present in Feeser as claimed.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 6, 10, 11, 19, 31 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feeser as applied to claim 1 above, in view of Komatsu (US 5,033,972), of record in the instant IDS.

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Re claims 6, 10, 11, 19, 31: The specific arrangements claims in claims 6, 10, 11, 19 and 31 are all shown in figure 2 of Komatsu (see accompanying specification).

In view of Komatsu's teaching, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ these aspects of Komatsu's design because Komatsu's arrangement may be gentler on a card since Feeser's arm portion could potentially contact the card too soon (before it is all the way in). Feeser, meanwhile, teaches drawing the card completely into the interior, a valuable security feature which Komatsu lacks.

Re claim 36: Komatsu has a sensor to determine when the system is locked. Very obviously, reads and writes should not be performed when the card is not fully and properly locked in place, because there may be bad reads and card damage.

Claim 24, 32 and 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feeser as applied to claim 1 above.

Re claim 24: While Feeser fails to teach the recited closure means, disk drives have long had dust doors biased in a closed position. One motivation for the inclusion of this of course is to block out dust.

Re claims 32 and 33: Feeser admittedly performs a manual insertion, but it is widely appreciated in the art that simple use of motors can replace the push motions of Feeser. Motivations include ease of use and gentle treatment of the card.

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Allowable Subject Matter

Claims 12 -17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach or fairly suggest, in the context of all other limitations present in the independent claim, an arresting element fitted to at least one locking element such that it can be moved to an "arrested position" and arrest the locking unit in a "locked position".

Claims 37-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach or fairly suggest, in the context of the limitations of claim 35, the steps of claim 37, especially including the clamping and releasing steps.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL A. HESS whose telephone number is (571)272-2392. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel A Hess/

Primary Examiner, Art Unit 2876

3/11/2009